

REMARKS

Please reconsider the present application in view of the following remarks. Applicant thanks the Examiner for carefully considering the present application.

I. Disposition of the Claims

Claims 59-65 and 72-78 are currently pending.

II. Rejection(s) under 35 U.S.C. § 103

Claims 59-65 and 72-78 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,535,261 (“Brown”) in view of U.S. Patent No. 5,539,812 (“Kitchin”) and U.S. Patent No. 4,011,513 (“Naylor”). For the reasons set forth below, Applicant respectfully submits that these rejections are improper.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987); MPEP § 2131. Here, independent claim 59 in part requires comparing tones to a predetermined call-bridging tone set to identify an attempt to bridge the telephone connection between the regulated calling party and the called party to include a third party. Independent claim 72 includes similar language, albeit directed to a system.

As to Brown, the Examiner specifically stated that Brown fails to disclose the limitations immediately discussed above. *See* instant Office Action, page 3. Kitchin is also not relied on as disclosing these limitations. Rather, the Examiner points to Naylor, discussed below.

Naylor discloses a technique for preventing a user with a “blue box” from placing

fraudulent calls. *See* Naylor, col. 1, l. 57 – col. 2, l. 18. As disclosed in Naylor, a blue box is a device that a user connects to his telephone to hijack a phone system into placing a call to a second phone number instead of to a first phone number, the first number being associated with lower billing charges than the second phone number. *See* Naylor, col., 1, ll. 6 – 56. More particularly, the blue box allows the fraud perpetrator to dial a first number, and as the toll office attempts to connect the perpetrator to the first number, the blue box detects the attempt and quickly and without detection causes the toll office to instead call a second number without having the second number registered for billing purposes. *See* Naylor, col. 4, l. 63 – col. 5, l. 61. With reference to Figure 1 of Naylor, in an effort to prevent such fraudulent calls, Naylor detects a second “proceed-to-send” signal on channel B returned to single frequency unit 104. *See* Naylor, col. 5, l. 64 – col. 6, l. 21. More particularly, the timing of the programs controlling the detection of supervisory signals at trunk circuit 101 is altered in Naylor to provide for the detection and recognition of the second proceed-to-send signal. *See* Naylor, col. 5, l. 64 – col. 6, l. 21.

As clear from the disclosure of Naylor, the fraud perpetrator in Naylor is not attempting to make a three-way call. Instead, the perpetrator in Naylor is attempting to trick the phone system into placing a call to a second number instead of to a first number in order to avoid being billed for the phone call to the second number (which presumably is at a higher rate than a phone call to the first number). There is no involvement of a third party in Naylor. In other words, the perpetrator in Naylor is not attempting to have a call with two other people. Naylor is not at all concerned with a calling party attempting to bridge a call between the calling party and a called party to include a third party. As such, Naylor fails to at least disclose comparing tones to a predetermined call-bridging tone set to identify an attempt to bridge the telephone connection

between the regulated calling party and the called party to include a third party, as required by independent claims 59 and 72.

In view of the above, Brown, Kitchin, and Naylor, whether considered separately or in any combination, fail to disclose each and every limitation of independent claims 59 and 72. Thus, independent claims 59 and 72 are patentable over Brown, Kitchin, and Naylor. Dependent claims are allowable for at least the same reasons. Accordingly, withdrawal of the § 103 rejections is respectfully requested.

III. Conclusion

The Examiner is encouraged to contact the undersigned attorney if it would be beneficial to further advance the prosecution of the application.

Please apply any charges not covered, or any credits, to Deposit Account 19-2555 (Reference No. 18279-08041).

Respectfully Submitted,
Jay L. Gainsboro

Date: March 14, 2007 By: /Brian Hoffman/

Brian M. Hoffman, Reg. No. 39,713
Attorney for Applicant
Fenwick & West LLP
801 California Street
Mountain View, CA 94041
Tel.: (415) 875-2484
Fax: (415) 281-1350